

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Joshua J. Gipson,

Petitioner

Case No. 2:23-cv-00099-CDS-DJA

Order Granting Unopposed Motion for Stay

V.

Ronald Oliver, et al.,

Respondents

[ECF No. 47]

This matter is before the court on petitioner Joshua J. Gipson's unopposed motion for a ECF No. 47. This court is authorized to stay a habeas matter to allow a petitioner to present unexhausted claims to the state court. *Rhines v. Weber*, 544 U.S. 269, 273–75 (2005). *Rhines* allows a court to stay a habeas petition if “(1) the petitioner has ‘good cause’ for his failure to exhaust his claims in state court; (2) the unexhausted claims are potentially meritorious; and (3) there is no indication that the petitioner intentionally engaged in dilatory litigation tactics.” *Wooten v. Kirkland*, 540 F.3d 1019, 1026 (10th Cir. 2008) (citing *Rhines*, 544 U.S. at 278). The court finds that a stay is appropriate. If a new state habeas petition will be procedurally barred as untimely, Gipson has a viable actual innocence argument he can make to the state courts to overcome that procedural bar. ECF No. 47 at 3–4. Moreover, Gipson’s ineffective assistance of counsel claims, which were previously raised before the state court, are not patently meritless, and Gipson has not intentionally engaged in dilatory litigation tactics.

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1 Conclusion

2 It is therefore ordered that the unopposed motion for stay [ECF No. 47] is granted.

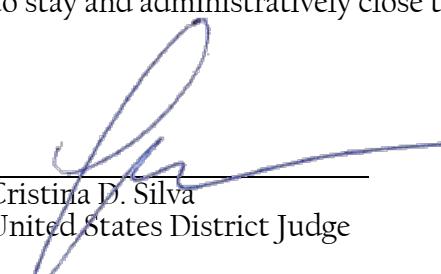
3 It is further ordered that Gipson move to reopen this action within thirty days of

4 issuance of the remittitur by the Supreme Court of Nevada at the conclusion of the state court

5 proceedings.

6 The Clerk of Court is kindly directed to stay and administratively close this action.

7 Dated: February 12, 2025

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10 Cristina D. Silva
United States District Judge

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